IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3859 OF 2005
IN
CRIMINAL APPEAL NO. 302 OF 2005

Sajivkumar @ Kumar Pillai
Sadanand Pillai ...Applicant

Versus

The State of Maharashtra ...Respondents

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Mr. H.E. Mooman i/b Smt. Farzana Khan, Advocate for Applicant

Mr. D.P. Adsule, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 26TH JULY, 2005

P. C.:-

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is praying for bail. The applicant has been convicted under Section 392 r.w. 34 and 397 of I.P.C. He has been sentenced to R.I. for seven years.

3. The learned advocate for the applicant has submitted that there is delay in holding the parade. Moreover, there are various lacunae in holding the parade and hence the identification of the applicant

in such a parade cannot be relied upon. He has submitted that there is no other reliable material to connect the applicant with the crime.

4. On the other hand, the learned A.P.P. has submitted that the witnesses had sufficient opportunity to observe the accused person and in such case, holding of T.I. parade was not strictly necessary. He has placed reliance on the decisions of the Supreme Court in the case of **Visveswaran Vs.State reported in 2003 Cri.L.J. 2548 and Dana Yadav Vs. State of Bihar (2002) 7 SCC 295** The learned A.P.P. has also pointed out that the applicant is involved in another case i.e. C.R. No. 265 of 2001. The said case is under Section 365 and 397 of I.P.C. hence, he has submitted that the applicant may not be granted bail.

5. The learned advocate for the applicant has further submitted that the applicant has completed half the period of imprisonment and hence on this ground the applicant may be granted bail. It is true that the applicant has completed almost half the period of imprisonment, however, looking to the antecedents of the applicant, it has been rightly apprehended by the prosecution that if the applicant is released on bail he will misuse the liberty granted to him. In this view of the matter, I am not

inclined to grant bail to the applicant at this stage. Application is rejected.

6. However, office to prepare paper books on urgent basis and place the appeal for final hearing within a week on paper book being prepared.

7. Application is disposed of.

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